IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.744 OF 2005

ALONG WITH
CRIMINAL APPLICATION NO.933 OF 2006
IN
CRIMINAL APPEAL NO.744 OF 2005

Naresh @ Narad Singh Thagi Singh. ..Appellant/Applicant. [Orig.accused No.1]

Versus

The State of Maharashtra. ..Respondent.

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Mr.Dr.Y.M.Choudhary, Adv. for the Appellant.

Mr.A.S.Gadkari, APP, for the State.

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CORAM : R.M.S.KHANDEPARKAR, & SMT.V.K.TAHILRAMANI, JJ.

DATED : 24TH JULY, 2007.

ORAL ORDER (PER SMT.V.K.TAHILRAMANI, J.) :

1. Heard Mr.Choudhary, learned Advocate for the Appellant-orig.accused No.1 and Mr.Gadkari, learned APP for the State.

2. Through this Appeal the appellant-orig.accused No.1 has challenged the

judgment and order dated 16.10.2004 passed by the learned Additional Sessions Judge for Greater Mumbai in Sessions Case No.1260 of 2000. By the said judgment and order the learned Sessions Judge convicted the appellant-orig.accused No.1 under Section 302 IPC and sentenced him to RI for life and fine of Rs.10,000/- in default RI for one year. The appellant was also convicted under Sections 450 r/w 34 IPC and 397 r/w 450 r/w 34 IPC, however, no separate sentence was awarded in relation to these offences.

3. In this Appeal, an application i.e. Criminal Application No.933 of 2006 came to be filed by the appellant stating that the appellant be declared as a juvenile and in that event the appellant be released. Pursuant to the said application, an enquiry came to be conducted and the enquiry report of the Principal Judge shows that on the date of the incident i.e. on 4th September, 2000 the appellant was not over 16 years of age.

4. Mr.Choudhary, on instructions, stated that

the appellant is not challenging his conviction, but, the appellant has restricted his prayer to the sentences being set-aside in view of the fact that the appellant was a juvenile. In view of the enquiry report it is seen that the appellant was a juvenile as per the present act i.e. the Juvenile Justice (Care and Protection of Children) Act, 2000 as well as under the old Act i.e. the Juvenile Justice Act, 1986. The learned APP fairly states that in view of the enquiry report, he has no objection to the prayer of the appellant being granted.

5. In view of the above, the judgment and order of conviction dated 16.10.2004 is confirmed however in view of the fact that the appellant was a juvenile he be released forthwith if not required in any other case. Appeal is partly allowed. Criminal Application No.933 of 2006 also stands disposed of.

[R.M.S.KHANDEPARKAR,J.]

[SMT.V.K.TAHILRAMANI,J.]